

103D CONGRESS
1ST SESSION

H. R. 3213

To amend the Federal Water Pollution Control Act to provide for the use of biological monitoring and whole effluent toxicity tests in connection with publicly owned treatment works, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 5, 1993

Mr. HEFLEY (for himself, Mr. PASTOR, Mr. KYL, Mr. SCHAEFER, Mr. SKEEN, and Mr. DOOLITTLE) introduced the following bill; which was referred to the Committee on Public Works and Transportation

A BILL

To amend the Federal Water Pollution Control Act to provide for the use of biological monitoring and whole effluent toxicity tests in connection with publicly owned treatment works, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Publicly Owned Treat-
5 ment Works Biological Monitoring Use Act”.

1 **SEC. 2. USE OF BIOLOGICAL MONITORING FOR PUBLICLY**
2 **OWNED TREATMENT WORKS.**

3 (a) Section 303(c)(2)(B) of the Federal Water Pollu-
4 tion Control Act is amended by striking at the end thereof,
5 the “.” and inserting a “:”, and adding the following:
6 “*Provided*, That for publicly owned treatment works, noth-
7 ing in this Act shall be construed to authorize the use of
8 effluent limitations which result in the finding of a viola-
9 tion upon failure of whole effluent toxicity tests or biologi-
10 cal monitoring tests.

11 “(C) Where the permitting authority determines
12 that the discharge of a publicly owned treatment
13 works causes, has the reasonable potential to cause,
14 or contributes to an in-stream excursion above a
15 narrative or numeric criterion for whole effluent tox-
16 icity, the permit shall contain terms, conditions or
17 limitations for biological monitoring or whole efflu-
18 ent toxicity tests which shall provide for the follow-
19 ing process:

20 “(i) The conduct of periodic biological
21 monitoring or whole effluent toxicity tests.

22 “(ii) Procedures for the identification and
23 reduction of the cause of the whole effluent tox-
24 icity if such toxicity is determined to exist.

25 “(iii) The control of the toxicity in accord-
26 ance with a reasonable schedule based on the

1 relative importance of, and adverse impacts on,
2 receiving waters and designated uses, and the
3 permittee's financial capability.

4 “(iv) Procedures for ending the identifica-
5 tion and reduction of the whole effluent toxicity
6 if the source or cause of the toxicity can not be
7 located or resolved.

8 “(v) Compliance with all other remaining
9 permit terms and conditions.”.

10 Subsequent paragraphs shall be renumbered accordingly.

11 (b) MORE STRINGENT STATE LIMITATIONS.—Sec-
12 tion 301(b)(1)(C) of the Federal Water Pollution Control
13 Act (33 U.S.C. 1311(b)(1)(C)) is amended by inserting
14 “or permit condition” after “limitation”.

15 (c) INFORMATION ON WATER QUALITY CRITERIA.—
16 Section 304(a)(8) of the Federal Water Pollution Control
17 Act (33 U.S.C. 1314(a)(8)) is amended by inserting “,
18 consistent with section 303(c)(2) (B) and (C) of this Act,”
19 after “publish”.

20 (d) USE OF BIOLOGICAL MONITORING OR WHOLE
21 EFFLUENT TOXICITY TESTING.—Section 402 of the Fed-
22 eral Water Pollution Control Act is amended by adding
23 the following new section at the end thereof:

24 “(q) USE OF BIOLOGICAL MONITORING OR WHOLE
25 EFFLUENT TOXICITY TESTING.—Where the Adminis-

1 trator determines that it is necessary in accordance with
2 section 303(c)(2) (B) and (C) of this Act to include bio-
3 logical monitoring, tests or assessment methods or whole
4 effluent toxicity tests as a term or condition in a permit
5 issued to a publicly owned treatment works pursuant to
6 this section, such permit terms and conditions shall be in
7 accordance with section 303(c)(2)(C) of this Act, and the
8 failure of biological monitoring tests or whole effluent tox-
9 icity tests shall not result in a finding of violation.”.

10 (e) EFFLUENT LIMITATION DEFINED.—Section
11 502(11) of the Federal Water Pollution Control Act (33
12 U.S.C. 1362(11)) is amended to read as follows:

13 “(11) The terms ‘effluent limitation’ and ‘efflu-
14 ent limit’ shall mean any restriction established by
15 a State or the Administrator on quantities, rates,
16 and concentrations of chemical, physical, biological,
17 and other constituents which are discharged from
18 point sources into navigable waters, the waters of
19 the contiguous zone, or the ocean, including sched-
20 ules of compliance as established through permit
21 conditions, enforcement orders, or consent decrees.”.

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